

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION

DAMIENE LEWIS
Reg. #04168-095

PLAINTIFF

V.

NO. 2:08cv00059 JLH

DEPARTMENT OF JUSTICE, et al

DEFENDANTS

ORDER

On August 8, 2008, Plaintiff filed a motion to voluntarily dismiss this 42 U.S.C. § 1983 complaint in its entirety (doc. 21) on the grounds that he is unable to pay the \$350.00 statutory filing fee. Plaintiff further requests the Court to refund any amounts collected towards his filing fee thus far and contends that he never agreed to pay.

On July 28, 2008, Plaintiff filed a motion to extend the time to pay the filing fee (doc. 15). The Magistrate Judge denied Plaintiff's request (doc. 16) explaining to him that when he filed this lawsuit in April he requested in forma pauperis status. Plaintiff was informed that he could not subsequently delay collection of the initial partial filing fee or any subsequent payments due. Any prisoner who files a civil action in forma pauperis must pay the full statutory filing fee of \$350, the only issue being whether the inmate pays the entire filing fee at the initiation of the proceeding or in installments over a period of time. 28 U.S.C. § 1915(b)(1).

A member of this Court's staff has contacted the Financial Office of the United States District Court for the Eastern District of Arkansas. Records indicate that Plaintiff's initial partial filing fee has not yet been collected; therefore, no refund will be issued.

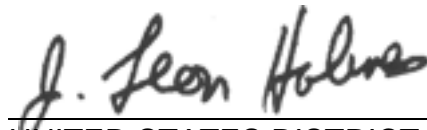
Moreover, there are no objections to Plaintiff's request to dismiss as no Defendant has been served.¹ The Court therefore finds that no reason exists to deny Plaintiff's request.

Because the action is being dismissed voluntarily, the Warden of the Federal Correctional Institution is relieved of the responsibility to withhold or collect any filing fees from Plaintiff's institutional account in connection with this case.²

Plaintiff's motion to voluntarily dismiss (doc. 21) is hereby GRANTED. Judgment will be entered dismissing Plaintiff's complaint without prejudice. All pending motions are DENIED AS MOOT.

The Clerk of the Court is directed to send a copy of this order to the Warden of the Forrest City Medium Federal Correctional Institution, P.O. Box 3000, Forrest City, Arkansas 72336-3000; to the United States Marshal for the Eastern District of Arkansas; and to the Arkansas Board of Correction and Community Punishment Compliance Division, P.O. Box 20550, Pine Bluff, Arkansas 71612-0550.

IT IS SO ORDERED this 21st day of August, 2008.


UNITED STATES DISTRICT JUDGE

¹ By order entered August 1, 2008 (doc. 18), this Court adopted the Magistrate Judge's partial report and recommendations and directed service on Defendant Azuma.

² This obligation was imposed in the Court's order entered July 16, 2008 (doc.11). That direction is hereby cancelled.